

Public Child Welfare

Elsa Ten Broeck

Introduction

Children served by the public child welfare system present unique challenges to private sector treatment providers who work with these children to address their mental health needs. In addition to the trauma these children face as victims of abuse and neglect, they also must deal with the challenges that result from state intervention into their family life. This chapter provides information to help treatment providers understand the public child welfare system and its interventions. It is written from a public child welfare perspective and is intended to assist the treatment provider in helping the child to deal with the challenges in their life brought on by the intervention of the public child welfare system.

The California Public Child Welfare System

California's public child welfare system is administered by the California State Department of Social Services and operated by the 58 county governments. Most counties' child welfare services are located in the county social service department, which may also administer adult services, financial aid, and (less frequently) other human services such as mental health or youth services. The goal of the California public child welfare program is to ensure each child a safe and permanent home. To achieve this goal, county departments are mandated by law and regulation to provide both intake services and ongoing services.

Intake services include:

- Receipt of reports of child abuse and neglect.
- Response to reports that meet a criteria for an in-person response.
- Cross-reporting of specified cases to police, district attorney, and community care licensing.
- Joint response with police (as dictated by local policy).
- Assessment and initial case planning and provision of brief voluntary services to families who meet a specified criteria and agree to services.
- Initiation of juvenile court proceedings on behalf of children in need of court protection.
- Investigation and reporting to juvenile court on behalf of children that the court finds in need of court protection.

Ongoing services include:

- Provision of ongoing voluntary services to children and families assessed as at risk for abuse and neglect.
- Implementation of case plans and service recommendations to the juvenile court for children determined to be in need of court protection.
- Referrals of children and families to community services.
- Monitoring of case plans and service provision.
- Monitoring of child safety during provision of services.
- Reporting to juvenile court on case progress for children under the supervision of juvenile court.

- Recruitment, training, and licensing of foster parents.
- Placement of children in out-of-home care.
- Monitoring of children placed in out-of-home care.
- Return of children to families.
- Development and recommendation of permanent placement plans for children who cannot be reunified with families.
- Placement of children in alternative permanent homes.
- Provision of adoption services, including finalization of adoption.
- Implementation of legal guardianships.
- Termination of public child welfare services.

Most counties provide these services through an Intake Services program and an Ongoing Services program. Staff members who work in these programs are generally called Child Welfare Workers (CWWs), although they may also be known as Child Protective Service (CPS) Workers or Children Services Workers (CSW). For the purposes of this chapter, CWW is used to designate a staff member working in the public child welfare programs described below.

Intake Services Programs

Most county Intake Services programs provide services to a family from the initial contact through the assessment phase, including **Juvenile Court Investigation**. CWWs responsible for **Emergency Response** provide 24-hour, 7-day a week response to community calls regarding children at risk for abuse and neglect. Most reports are initiated by a phone call to a central county child abuse hotline. California law allows reports that require an in-person response to be categorized as either an **Immediate Response** or a **10-day Response**. Immediate Response referrals must be seen within 24 hours of the report. Generally these calls involve immediate risk to the child and are reports of physical or sexual abuse or life-threatening neglect. Immediate Response calls usually involve police as well as social service personnel. All other calls that require an in person response (usually general neglect) must be responded to within ten calendar days of the initial call.

Individual counties vary as to which referrals are accepted or not accepted for an in-person response. California law and state regulations provide guidelines for what types of cases should receive an in-person response, what types of cases should be assessed immediately and what types should be seen within 10 days. The final decision is determined by county policy. Some counties require that almost all reports receive an in-person response, while others carefully screen reports prior to having a CWW make an in-person contact with the child and family (Little Hoover Commission Report, p. 56).

During the initial contact, the CWW assesses the safety of the child, determines whether services are required to protect the child, and, if services are required, works with the family to plan and obtain those services. As indicated above, counties vary on how they respond to initial reports. Cases may receive a phone assessment, an in-person assessment, or brief services. Most cases reported to public child welfare agencies are assessed as not involving enough risk to the child to justify ongoing intervention (Little Hoover Commission Report, p. 55). In these cases, problems may be identified but the CWW determines that the problems can be addressed by referring the family to community agencies for services. If the family is reported again, the earlier documentation is included in the new assessment of the risk to the child and the family's ability to utilize services.

Public child welfare intervention and services can be provided only when the risk to the child is assessed as significant enough to meet the legal standards for Juvenile Court intervention. Even when the risk to the child meets the legal standard, a CWW can provide voluntary services if the family agrees to cooperate and the services can protect the child in the home. Voluntary services can be provided for a period of up to 12

months, either directly by the public child welfare agency or through contracts with private non-profit agencies in the family's community.

In cases where there is a legal basis for intervention and (a) the child cannot be protected in the home or (b) the parent refuses to cooperate with services, the child can be removed immediately from the home. With few exceptions, only the police are authorized to remove a child from his or her parents' care on an emergency basis in California. Children removed from the home are usually placed in emergency shelter care provided by licensed foster parents or group homes.

After the police remove a child from the home, the CWW is responsible for:

- Placing the child in emergency shelter care.
- Releasing the child if the situation changes within 48 hours.
- Initiating court action to extend the placement beyond 48 hours if the child remains at risk.
- Writing and submitting (in consultation with the public child welfare department's attorney) a **petition** which identifies the legal basis for Juvenile Court intervention.

As soon as Juvenile Court proceedings are initiated, the Judge (or a Commissioner or Hearing Officer) becomes the individual responsible for making all subsequent decisions regarding the child.

Ongoing Services Programs

Once services have been initiated, the family receives Ongoing Services through the Family Preservation, Family Maintenance, Family Reunification, or Permanent Placement programs. In larger counties, these services generally are provided by a CWW different from the CWW who provided the Intake Services.

Family Preservation and Family Maintenance Programs

In both Family Preservation and Family Maintenance Programs, services are provided to families so that the child can remain in the home. Family Preservation services are usually offered to families to prevent abuse or neglect, while Family Maintenance services are usually offered after a family has been reported for abuse or neglect. Family Preservation services are usually offered on a voluntary basis when parents sign a contract for voluntary services, although they can be court-ordered in some situations. Most Family Maintenance services are ordered by the Juvenile Court. Service plans for parents who keep their children at home generally include some or all of the following:

- Individual and family counseling
- Parenting classes
- Drug treatment services
- Anger management classes
- Intensive in-home services such as parent aides and homemakers

Service plans for children who remain at home generally require that the parent provide the child with ongoing medical care, adequate food, clothing, housing, and supervision. An outside professional usually sees the child on a regular basis. Services provided to the children who are living at home can include:

- Protective day care.
- Therapeutic nursery.
- Public health nurse visits.
- Tutoring or special education programs.
- Individual and group counseling.

Both Family Preservation and Family Maintenance services can be provided by or paid for by the public child welfare agency. Both Family Preservation and Family Maintenance services are time-limited, usually up to a total of twelve (12) months. As a result, voluntary services are generally provided only to low-risk cases that do not require long-term interventions. Court-ordered Family Maintenance services may continue for as long as the Court determines that there is a need for in-home services to protect the child.

Family Reunification Programs

Family Reunification services ordered by the Juvenile Court are designed to facilitate the return of children from out-of-home care to their family. Services are provided to both children and parents, are limited to 12 months, and usually include:

- Services to the child in out-of-home placement.
- Services to the out-of-home care provider.
- Services to maintain contact between the parent and child.
- Services to parent(s) to address problems that caused the abuse or neglect.
- Visitation services for child and parent, and child and siblings or extended family members.

Permanent Placement Programs

Permanent Placement services are provided to children who have been removed from their parents' care and placed by the Juvenile Court in an alternative home that will care for the child until emancipation. By law, the CWW must first consider adoption, then legal guardianship, and finally long-term foster care as the permanent plan for the child. Permanent Placement services include adoption services, legal guardian services, and long-term foster care services. Emancipation services are mandated for all youth before they leave foster care at the age of 18 or 21.

In order to provide therapeutic services that address the needs of the dependent child in permanent placement, the treatment provider must be informed about the child's placement and the public child welfare services that are available in that placement. The following information is provided about each type of Permanent Placement to increase the treatment provider's awareness and understanding of these placements.

Adoption Services

Adoption services are provided either directly by the county child welfare agency or by the California Department of Social Services Adoption Bureau. Adoption services usually include:

- Acceptance of voluntary relinquishment of parental rights.
- Initiation of or consultation regarding court action to terminate parental rights.
- Care for children whose parents have relinquished their rights or had their rights legally terminated.
- Recruitment and approval of adoptive homes.
- Placement of children in adoptive home.
- Supervision of the adoption placement.
- Legalization of adoption through court action.
- Post-adoption services including services to adult adoptees.

Legal Guardianship

Services to children placed with legal guardians include:

- Initiation of petitions for legal guardianships.

- Evaluation of homes of prospective legal guardians.
- Supervision of legal guardians (when ordered by the Juvenile Court).
- Provision of financial payment to financially eligible legal guardians.
- Response to requests by legal guardians to rescind guardianship.

Long-Term Foster Care

Long-term foster care is a special designation of foster care which involves an agreement between the foster parent and the public child welfare agency (and the foster child when appropriate) that the foster parent will care for the child until the child is emancipated. In long-term foster care, the child is the focus of service. Although the child may visit with his or her family of origin, it is understood that the child will be raised to majority by the foster parent. It is possible for parents to reunite with children who are placed in long-term foster care if that plan is in the child's best interest. There is no legal mandate that the CWW must provide reunification services to parents of children in long-term foster care.

Services provided in long-term foster care include:

- CWW visits with child and foster parents.
- Emancipation services for adolescents.
- Specialized services for children, including:
 - Therapy
 - School services
 - Medical care, physical therapy if indicated
 - Foster care board payments and specialized payments

Legal Mandates

In 1980 the first legal reform to the public child welfare system in 50 years occurred with the passage of the Federal Adoption Assistance and Child Welfare Reform Act (PL 96.272). The law mandated all 50 states to provide a comprehensive service system to children at risk for — or placed in — out-of-home placement. The reform system set out to assure that all children would be both protected and placed in a permanent home. The new mandates included:

- Legal standards that must be met before a child can be removed from his or her parent's custody.
- Time limits on the length of out-of-home placement.
- Requirements for permanent placement.
- Mandates for services to all parents.

The goal of the new program was to reduce the number of children who were being raised in foster care without a permanent plan. The federal and related state laws emphasized services to prevent removal, and reunification services when a child had to be removed. For children who could not be reunified within the time limits mandated by law (12–18 months), the law required that the child be placed in an alternative permanent home with adoption as the plan of choice.

During the 1990s there were a number of additional state and federal laws passed to modify the Child Welfare program. The most significant was the 1997 Federal Safe Family Act and the California Adoption Initiative (AB 1554). Both laws clarify that the primary goal of the public child welfare system is to protect children and to provide them with permanent homes. The law also requires that all children be placed either with the child's immediate or extended family (when that family can provide both protection and permanency), reunified within twelve (12) months from temporary placement, or be placed for adoption

when reunification is not possible. CWWs are required to develop **concurrent placement plans** when the worker assesses that the child might be reunified within twelve (12) months. A concurrent placement plan means that the child is placed with a family that is prepared to either adopt or become legal guardian of the child if the reunification plan is unsuccessful.

The Safe Family Act also specifies that certain children should be immediately placed in alternative permanent homes without offering the parents reunification services. These cases include:

- Children under three who have been severely physically or sexually assaulted
- Children whose parents who have abused or murdered another child
- Children whose parents are addicted and have refused court-ordered treatment

In all of these cases, the parent of the child is no longer guaranteed services to assist them in reuniting with their child. Assuming it is in the child's best interest to be permanently removed from the parent, the law requires that the CWW place the child with a family that is willing to either adopt, become legal guardians or provide foster care until the child is emancipated.

Therapists who provide mental health services to children who are supervised by the public child welfare system must be aware of the legal requirements that dictate what services and plans can be made for the child. Decisions regarding the child's placement, contact with parents, and some specific aspects of treatment (for example, psychotropic medications) are made by the Juvenile Court and are generally based upon the recommendation of the CWW and evidence presented in court. It is therefore critical that therapists working with children who are involved with the Juvenile Court (technically called **Dependent Children of the Court**) learn about the public child welfare system, its relationship to the Juvenile Court and Juvenile Court laws.

The Juvenile Court System

The Juvenile Court is mandated by federal law to:

- Set objective standards for the level of risk required to remove a child from their parents.
- Review all children placed out-of-home (even if placed by voluntary agreement).
- Order services to families to maintain children at home or reunification services if the child was removed.
- Set time limits on all out-of-home placements.
- Develop an alternative permanent placement plan for children who are not reunified within the placement time limits.
- Consider adoption or legal guardianship as the alternative permanent placement prior to considering long-term foster care.

Structure of the Juvenile Court and Court Hearings

The Juvenile Court provides services to two groups of children: **dependent children** who are in need of court protection due to abuse or neglect by their caregiver and **delinquent children** who have violated the law. Welfare and Institutions (W and I) Code Section 300 is the law which authorizes the Juvenile Court to assume responsibility for dependent children. The initial court action is generally separated into three parts:

- Detention Hearing
- Jurisdictional Hearing
- Disposition Hearing

Detention Hearing

The purpose of the Detention Hearing is threefold:

- To present the petition (a legal statement of the allegations of abuse) to the parents of the child
- To ensure that all parties are assigned counsel
- To determine where the children will be placed during the investigation of the case

Jurisdictional Hearing

The Jurisdictional Hearing tests the facts of the petition through testimony and decides if there is a legal basis for the Court to intervene.

Disposition Hearing

If any part of the petition is found to be true, the Court assumes jurisdiction over the children at the Disposition Hearing. The Court also orders the implementation of a specific plan that addresses resolution of the presenting problems, with tasks assigned to specific family members and to the CWW, and clearly identified goals to be accomplished for termination of Court jurisdiction.

Follow-Up Hearings

There are two types of Court Hearings that can occur as a case proceeds. These are:

- Judicial Review Hearings
- Permanent Planning Hearings

Judicial Review Hearings

All Dependency Court orders are time-limited and must be reviewed at a minimum of every six months. In the Judicial Review Hearings, the Court reviews the presenting problems, the plan to address the problems and the progress made by the family in resolving the problems. Cases are generally limited to twelve (12) months of intervention with two Judicial Review Hearings. If by the second Judicial Review Hearing, no significant progress has been made by the family, the Court is required to pursue an alternative plan involving permanency planning for the child.

Permanent Planning Hearings

When a child is not returned to his or her parents within the 12-month time limit, a special Review Hearing called the Permanent Planning Hearing (PPH) is held. At the PPH the Court approves a plan for an alternative permanent home. By law the Court must order the child to be placed in one of the following permanent placements:

- an adoptive home
- the home of a legal guardian
- a long-term foster home

System Issues

To fully understand and effectively interact with the public child welfare system, treatment providers need to be aware of the issues that drive the day-to-day operations of the public child welfare staff and services. The wide variety of agencies and jurisdictions involved with abused and neglected children in California makes working with the service system daunting to persons (both professionals and families and children) who must either collaborate with or receive services from that system. This section discusses some of the critical issues that affect public child welfare, as well as the way that public child welfare interfaces with law enforcement, the Juvenile Court, and public mental health services.

Complexity of the Public Child Welfare System

The public child welfare system in California is administered by the State and operated by individual counties. The State sets policy, distributes funding, monitors compliance and provides technical assistance to counties. Counties manage their own budgets, hire and manage staff and provide direct services to clients. This system allows for wide diversity in the provision of services from county to county across the state.

Interface between the Public Child Welfare System and County Law Enforcement Departments

CWWs are mandated by law to cross-report all cases of physical abuse, sexual abuse and life-threatening neglect to law enforcement (Police or Sheriff) and the District Attorney. In many cases, CWWs make joint responses with law enforcement when investigating these cases. When there is an immediate danger to the child, law enforcement generally makes the initial response to evaluate the situation. When no immediate danger is suspected, the CWW typically makes the initial response and then cross-reports to law enforcement. Citizens who report child abuse have the option to report either to law enforcement or to the local public child welfare agency. If the child is believed to be in immediate danger, contact law enforcement.

At times, the investigative roles of the CWWs and law enforcement can conflict. Police conduct an investigation to determine if a crime has been committed. Police must conduct their investigation within the legal requirements of Criminal Court. They must provide suspects with a Miranda warning about their right to an attorney and the risk of self-incrimination, a requirement that does not apply to CWWs. CWWs are responsible for protecting the child and conducting their investigation within the legal requirements of the Juvenile Court. When a parent becomes the suspect in a criminal investigation, these two systems can have different priorities.

For example, whether or not a parental offender acknowledges molesting his or her child has very different consequences depending on whether the case is in Criminal Court or Juvenile Court. A criminal lawyer usually instructs the offender not to cooperate with any investigation or become involved in any therapy, in order to reduce the risk of self-incrimination. At the same time, the CWW tries to set up a treatment plan for child and family that seeks not only the offender's involvement and cooperation, but also acknowledgment of responsibility. Achieving this type of therapeutic goal — which is often in the child's best interest — conflicts with the offender's best interest in the Criminal Court.

All public child welfare agencies try to establish constructive working relationships with local law enforcement. Recognizing that each agency operates with different goals and legal constraints can allow both to work toward the mutual goal of public safety and child protection.

Interface between the Public Child Welfare System and the Juvenile Court

The Juvenile Court adjudicates between the rights of parents to care for their child and the rights of the State to intervene in family life to protect a child. If a family has been reported for abuse or neglect and does not agree to voluntary services, or the seriousness of the alleged maltreatment precludes voluntary services, CWWs must prove in court that a child is at risk and obtain a Juvenile Court Order before the CWW can limit a parent's rights and require them to participate in rehabilitative interventions.

The Court sets the standard for what is required to provide non-voluntary services to families. These standards determine what evidence is required to remove a child, to place a child with another family, and to return the child home. The Court also determines what services are provided to the family and can order the public child welfare system to provide services even when a CWW recommends against those services.

CWWs face unique challenges when working with the Court. The Court system protects the rights of the accused and determines facts through the presentation of evidence. The CWW must know how to translate professional assessments — and judgments that a child is at risk — into legal facts that prove in a court of law that state intervention is required. CWWs must make professional judgments on the basis of information that may prove difficult to establish legally. At times the process of proving the facts can be as traumatic to

the child as the abuse itself. Like criminal courts, the Juvenile Court system has more cases than it can handle, and all parties are urged to settle cases in order to avoid lengthy trials. CWWs can find themselves forced to compromise regarding their recommendations, in order that the Court can increase the likelihood of a settlement and avoid a trial.

CWWs are not attorneys and must rely on County Counsels (or the District Attorney) to represent their interests in Court. These attorneys often have high caseloads and may not have the time to adequately prepare the CWW and other witnesses for hearings. The attorney representing the CWWs focuses on the legal aspects of the case and may resist dealing with aspects of the case that cannot be proven but which may be critical to successful therapeutic intervention.

In Juvenile Court, all parents are entitled to legal representation. If parents cannot afford an attorney, the Juvenile Court must appoint an attorney to represent them. In some counties, parents are represented by the Public Defender's Office; in other counties, the Court pays a panel of private attorneys to represent them. The attorney for the parents must represent their interests, which may be in direct conflict with the needs of the child.

Frequently, the defense strategy used by the parents' attorney is to attack the credibility of the evidence introduced by the CWW. This is accomplished by highlighting any appearance of inconsistency, incompetence, or biased behavior on the part of the CWW. This places the CWW in a stressful, adversarial role in a court proceeding. In highly contested cases, it sometimes results in shifting the focus of attention away from protecting the child and toward questioning the credibility of the CWW. The same defense strategy can also be used to reduce the credibility of therapy progress reports to the CWW from the treating therapist.

Whether children are represented by their own separate attorneys varies from county to county within California. Some counties appoint a lawyer for almost every child. Other counties infrequently appoint attorneys to represent children, assuming that County Counsel and the public child welfare agency already represent the child's interests. However, in highly contested cases, or cases where the Juvenile Court Judge determines that the child's interests cannot be represented adequately by the County Counsel (who acts as advocate for the public child welfare agency), the Court is required to appoint a separate attorney to represent the child.

Many Juvenile Court judges have developed Court-Appointed Special Advocate (CASA) programs to assist them in making decisions about a child's best interest. CASAs are trained volunteers who provide the Court with an independent recommendation about the child's needs. CASAs are assigned to only one or two children at a time and may be the only constant voice on a child's behalf over the duration of the court process.

The welfare of a dependent child depends on the ability of the Court and the local public child welfare agency to create a positive working relationship in spite of their potential conflicts. In California, efforts are being made to improve that relationship and to focus the efforts of both systems on the needs of the child. Each year, a statewide conference called *Beyond the Bench* is held for CWWs and Juvenile Court personnel where all of the parties working in Juvenile Court meet together to discuss the issues and problems in providing services to vulnerable families.

Interface between the Public Child Welfare System and the County Mental Health System

The interface between the public child welfare system and the public mental health system is determined by individual county organizations and working relationships. In some counties, the two services are administered by a single county agency. In most counties, two separate bureaucracies serve the same population in different ways. As with other parts of the system, public mental health and public child welfare services often have different goals, separate funding streams, and other differences that can interfere with the delivery of services to children and families. Traditionally, the public child welfare system and the public

mental health systems have had different focuses on how to provide services: CWWs work with non-voluntary clients, while public mental health staff work with voluntary clients. CWWs focus on providing services in the home, while public mental health staff provided services in an office or clinic. The educational level and professional training also differ between the two agencies. CWWs may or may not have professional degrees, while almost all mental health staff have professional degrees and are licensed.

Such differences can lead to conflicts between the two public agencies that can affect services to families. More recently, with the advent of managed care systems, the two systems have begun to identify common clients and to work together to provide integrated services to families. Several counties have developed innovative projects that combine public mental health and social services to provide “wrap-around” services and a single point of entry into the system. Most of these projects focus on the needs of the severely disturbed child in out-of-home placement.

Interface between the CWW and the Private Sector Mental Health Treatment Provider

The working relationship between a CWW and a private sector mental health treatment provider (treatment provider) can greatly affect the type of treatment provided the child (or the child and family). To work together, both professionals need to understand and respect the role the other plays in assessing and treating the child.

The CWW is responsible for controlling the environment within which the child lives, developing and monitoring plans that will enhance safety, and interfacing with the Court. The treatment provider is responsible for providing quality mental health services to meet the needs of the child within external guidelines set by the Court.

The CWW should provide the treatment provider with:

- Psychosocial history of the child and family.
- Copies of the disposition report and the complete case plan.
- Copies of reports prepared by other mental health providers for the child.
- Copies of any court orders that may have impact on the mental health treatment plan.

The treatment provider should provide:

- Best practices mental health services consistent with the needs of the child and family.
- Regular written reports to the CPS system on progress in therapy.
- Testimony in Juvenile Court when such testimony is required to protect the child.

When a conflict occurs between Court orders and the needs of the child and family, the treatment provider should inform the CWW and the Court of the conflict and recommend a resolution. Unfortunately, this critical working relationship does not always go smoothly. The following Section provides information about common pressures in the public child welfare system that can impact the working relationship between the CWW and the treatment provider.

CWW Reasons for Recommending Therapy

Although many dependent children meet the requirements for VOC funding and are referred to treatment providers because they need therapy, the CWW often seeks these services for additional reasons. Frequently, a CWW looks to the treatment provider for input on issues such as:

- The child's safety in the home.
- The child's need for a higher level of out-of-home care (for example, in a group home or residential treatment center).

- The child's bonding with his or her parent or with an alternative caregiver.
- The effect on the child of removal from a placement.
- The impact of visitation with parents, siblings, extended family, perpetrator of abuse and whether visitation should be allowed, extended, or discontinued.

Disclosure of confidential and privileged information raises complex issues for treatment providers when children are court dependents. See the Ethics and Legal Issues chapters for more information.

CWW Response to Treatment Provider Recommendations

The relationship between a treatment provider and a CWW can deteriorate into a battle over whose recommendations are in the child's best interest. When a treatment provider has been asked to make recommendations based on their professional expertise and assessment of the child, it can be baffling to have their recommendation modified, disputed, or ignored. The treatment provider may provide information and recommendations with the assumption that they will be implemented by the CWW and the Court. Conflict can occur because although the CWW relies on the treatment provider as an important source of information about the issues described above, they are not the sole source of information. For example, legal considerations may exist which can override the recommendations of a treatment provider.

In the legal arena, the CWW is the professional with ultimate responsibility for making recommendations to the Court regarding the child's placement and the family's service plan. The CWW is required by the Court to gather information from all interested parties about all aspects of the case and make a recommendation that is based on all relevant information and the legal relevance of that information. Treatment providers and CWW should work together to ensure that the relevant mental health information about the child and family is presented in Court in a manner that meets the legal requirements and also provides an accurate assessment of the mental health factors in the case.

Confidentiality and the Role of the Treatment Provider (and the Provider's Report) in Legal Proceedings

Treatment providers and the public child welfare system view the issue of confidentiality in different ways. Treatment providers generally operate on the premise that confidentiality is a basic tenet of treatment that has been established by complex legal and ethical considerations (see the Ethics and Legal Issues chapters for more information). However, CWWs generally operate on a "need to know" basis in order to ensure the safety of the child. Treatment providers are often asked to submit written reports to the CWW for inclusion in the CWW's report to the Court. On occasion, the treatment provider is asked to testify in court. All treatment providers should be aware that sharing of mental health information with other systems is part of working with children who have been abused and neglected. Talking with clients about the issue of limited confidentiality at the onset of treatment can reduce problems between therapist and client later in the treatment process. Informing the client about reports to the Court, and reviewing the content of reports with them, can avoid or mitigate damage to the therapeutic relationship. Treatment providers need to know that parents and children over ten years of age have the legal right to read a treatment provider's mental health report if it is attached to the CWW's court report.

The task force recommends that mental health treatment providers obtain special training in writing reports to the Court and testifying in Court and that they understand the fundamental differences between the way treatment providers and the public child welfare system approach confidentiality.

The Effect of System Limitations on Children

Many of the children served by the public child welfare system, particularly in out-of-home placement, are impacted by a lack of resources. Resources for placement are particularly limited, and a child may be placed in a home where the care is marginal or in some cases abusive. The public child welfare system is affected by national social problems such as the lack of adequate housing for families with low and middle incomes, and the need for two parents to work to attain a middle-class income. These problems (among others) have

seriously reduced the number of families willing to provide foster care for children. In addition, many of the children placed in out-of-home care need placements that can address serious emotional problems. Such placements are limited even in the best counties.

Children's caregivers may not understand the therapeutic process or may deliberately sabotage a child's progress in therapy. Placements can fail because of circumstances that have nothing to do with the child (such as death or divorce of the foster parents). Children may be moved from a placement with no warning, resulting in temporary and sometimes permanent removal from therapy without termination and against the treatment provider's advice. These moves can also disrupt a child's school environment, contacts with friends and family, and the child's sense of trust and bonding.

When these situations affect a child, it is important to discuss the realities that are impacting what the child needs and work together to find the best solution available. When a treatment provider and a CWW can mutually agree on what the child needs, they can work together to locate resources to improve the child's situation.

Differences in Professional Training and Orientation

The differences between a CWW and a treatment provider's training and philosophical approaches can contribute to struggles between them. CWWs vary widely in experience, training, and education. Generally, CWWs working in large urban counties have professional training. The most common advanced degree is an MSW or an MFT. Some CWWs also have an LCSW or an MFT license. Throughout the state, however, many CWWs do not have advanced degrees or professional licenses, although most have prior work experience in child welfare agencies.

To raise professional standards for all CWWs, the California Department of Social Services has established Regional Training Academies. Each academy is affiliated with a School or Department of Social Work in a University in the region. Currently, the academies are developing a standardized curriculum that will be available for all new CWWs.

Supervision of CWWs tends to focus on the administrative aspects of the work. Supervisors generally are responsible for six (and sometimes up to nine or ten) workers. Supervisory priorities include monitoring of the legal work; compliance with state and federal mandates; and documentation. Clinical supervision for the CWW can be difficult to obtain, although some counties have clinically trained supervisors or provide clinical consultation by psychiatrists and psychologists.

As in all helping professions, some CWWs have personal issues related to child abuse and neglect that affect their professional work. CWWs can be drawn to the profession by their own history of victimization or experience with the system. In these instances, the worker may have boundary issues that make them highly subjective in their assessments and decision-making and vulnerable to splitting between professionals.

Biases Regarding Professions and Professional Roles

Both treatment providers and CWWs may have biases about the other's profession that affect how they view the systems and cases. Treatment providers may view CWWs as poorly trained professionals who do not have the knowledge or skill to independently assess a child's needs, particularly for therapy. Treatment providers often expect the CWW to accept their mental health recommendations without question. The CWW may view the treatment provider as lacking knowledge and information about the child's real situation and as being unrealistic about what the system can and cannot provide for the child.

Frequently, professional bias results from a lack of understanding that the two professions have different roles in assisting the child. Understanding these differences and making active efforts to increase cooperation can reduce bias and increase both professionals' ability to provide effective intervention with children and families.

Recommendations for Enhancing Working Relationships

Despite all of the difficulties described above, many CWW and treatment providers work well together to provide services in very challenging cases. There are specific things treatment providers can do to enhance working relationships and minimize conflict.

Learning about the Local Child Welfare and Juvenile Court Systems

The most effective way to learn the system is to identify a person within the system who can provide information about both the formal and informal systems. In addition to system information, it is important to learn about individual staff. The following information is important:

- What is the CWW's general philosophy and approach?
- Is the CWW receptive to multidisciplinary input?
- Does the worker need to control all the decisions on a case?
- What is the worker's view of mental health providers?

Similar information is needed about Court personnel, especially the Judge who is hearing the case and the attorneys assigned to the case.

- Does the Judge have a working relationship with the public child welfare agency?
- Is there a child's attorney and is that attorney asking the Court to order treatment for the child independent of the CWW?
- Is the Judge realistic about what services mental health providers can and cannot provide?
- Does the Judge respect mental health assessment and professional opinions?
- Is there a way to communicate directly with the Judge if there are problems with the Court's order for treatment?
- Does the Court have a Court-Appointed Special Advocates (CASA) program and if so is there an advocate assigned to the case?

Obtain as Much Information as Possible Regarding the Referral

- What therapeutic services are being requested?
- What is the CWW expecting or needing from the referral?
- Is the case referred because of a court order; if yes, what is the specific order?
- What reports will the CWW need and when?
- Where is the case in the court process? What are the upcoming court dates?
- What is the case plan?

Clarify Expectations and Treatment Requirements

The treatment provider needs to state what is needed from the CWW to provide adequate treatment. The following areas of agreement may seem self-evident, but it helps to discuss them directly with the CWW before the referral is accepted. Never assume that information is so basic that you do not need to mention it.

- Expectations regarding the caregiver and whether or not the caregiver needs to be involved in the treatment
- Expectations regarding background information needed from the CWW
- Expectations regarding sharing of current information
- Cancellation policy

Treatment providers should develop a plan with the CWW on how they will communicate about the case. Contacting a CWW is an ongoing frustration, particularly for busy providers who have limited time to make repeated phone calls to unavailable CWWs. Setting up a regular time for consultation between the treatment provider and the CWW goes a long way toward preventing problems and misunderstandings.

Improving Collaboration between Treatment Providers and CWWs

Treatment providers and CWWs share a responsibility to build a professional collaboration that works for the best interests of children. The following professional courtesies are steps therapists can take to establish credibility with CWWs and to improve communication. CWWs should be expected to extend the same courtesies to the treatment provider.

- Follow through with agreements or notify the CWW when you cannot.
- Keep CWW informed about important treatment issues.
- Notify the CWW if the child's caregiver does not follow through with agreements.
- Immediately report any suspected abuse or neglect.
- Provide documentation when requested.
- Treat CWW with respect and involve worker in discussion and decision making about treatment.
- Keep roles clear and accept CWW role as case manager and the professional responsible for making the final recommendations.
- Maintain clear boundaries with client, caregivers and fellow professionals.

Dealing with Power Struggles

- As soon as you are aware that a power struggle is beginning, address the issue directly.
- Hold these discussions face to face.
- Listen and appreciate CWW issues, but also clarify your own role and situation.
- Keep the discussion focused on the needs of the client.
- When “splitting” has occurred (and is acknowledged by both professionals), develop a strategy to deal with the client as a team.

Choose to Confront Carefully and Keep the Focus on the Child

When a working relationship with a CWW is difficult, and the suggestions listed above do not help, it may be necessary to take a more confrontational approach. This is particularly true if the treatment provider believes a child is at risk or is being harmed, and the worker is unwilling to listen or respond to the provider's concerns. If confrontation is needed, the following suggestions may help the treatment provider obtain a positive resolution.

- Discuss the issues with the worker first and provide the worker opportunity to address the issues.
- Document the harm and your efforts to discuss the harm with the CWW.
- When you feel the worker has had an adequate time to respond and further action is needed inform the worker that you plan to contact the worker's supervisor.
- Meet jointly with the worker and supervisor (if they are willing).
- If supervisor is unwilling to address issue go to next level; inform supervisor that you plan to go to next level and repeat process used with supervisor and worker.
- If no response from CWW system, utilize the court system:
- Contact CASA or child attorney
- Write to Court directly

Confronting the system can be difficult and has consequences. The public child welfare system, like most bureaucracies, is political and resents having external pressures brought upon it. On one level this is helpful because the system will often respond to concerns simply to eliminate the pressure. However, in some cases the system may close down rather than admit to being wrong. In these cases treatment providers will have to work outside the system generally through the Court. Usually, the higher you go within the bureaucracy the more responsive the contact is to outside pressure and concerns. On the other hand, the higher you go the more likely it is that the lower levels of the bureaucracy will resent the intervention. In the long run, it is best to get resolution at the lowest level possible in the system. It is also critical to conduct all contacts above the worker level in an objective manner that focuses on the need of the child and not on the shortcomings of the worker.

Conclusion

This chapter provided information from the perspective of the public child welfare system. Its purpose is to increase the mental health treatment provider's understanding of how and why the public child welfare system and the CWWs respond to situations and problems the way they do. It is also written in the hope that all professionals who work with the children served by the public child welfare system can learn from each other and — by doing so — enhance the quality of services so desperately needed by abused and neglected children.

References

Little Hoover Commission. (1999, August). *Now in our hands: Caring for California's abused & neglected children*. (Little Hoover Commission Report #152). Sacramento, CA: Author.

